

EXHIBIT 7

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

5 XEROX CORPORATION, :
6 Plaintiff :
7 vs. : CIVIL ACTION NO.
8 PHOENIX COLOR CORPORATION: L-02-CV-1734
9 and TECHNIGRAPHIX, INC., :
0 Defendants :

20 Reported by:
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1 for time. On occasion you would fill out some of
2 the components afterward, but generally speaking,
3 98 percent of the time things were done, you
4 know, completed beforehand. Like, for example,
5 you know, I can see that I might have filled in
6 this, my name, phone number. It just depends on
7 the particular instance.

8 Q. What is the significance if a term was
9 typed versus one that was handwritten by you?

10 A. I got somebody to type it.

11 Q. It just depends on whether you had
12 administrative support back at the office that
13 day?

14 A. They had come up with a system that you
15 could generate the typed document. It's
16 generally a lot later than, you know -- and if I
17 had the time, I would do it.

18 Q. Okay. Let's --

19 A. But it requires such a magnanimous
20 amount of input. That's why I didn't always do
21 it.

1 Tyler requested that this term be reduced from 60
2 to 59?

3 A. He did not. I'm trying to tell you what
4 was responsible for that. Maybe I'm being too
5 honest. And I think that's the problem. I
6 should just -- you ask the question. I'll give
7 you yes or no.

8 The reality is this -- he added a
9 component. The only way to do it at Xerox, as
10 kludgey as this sounds, is take an existing
11 contract that's associated with this number that
12 happens to start with 95, and they replace it,
13 the whole new system, which has some value, for
14 whatever months are remaining, and that becomes
15 the contract. And that's all this was, was when
16 he added this stacker.

17 Q. Let's go to the next page. This is
18 TGI-002506. Whose signature is in the lower
19 right corner to the best of your knowledge?

20 A. The lower right-hand corner?

21 Q. Right.

1 A. It looks like the same signature, Donald
2 Tyler.

3 Q. And do you know whose handwriting is
4 throughout the document?

5 A. It appears to be mine.

6 Q. Including putting in the title
7 vice-president Phoenix Color, VP Phoenix Color?

8 A. Yep.

9 Q. Okay. And do you have any recollection
10 of making this modification in December of 1999?
11 Do you recall the circumstances surrounding it?

12 A. No, but when I look at it, what comes to
13 mind is he was adding this component right, here
14 this listing that designated a component.

15 MR. FRIEDMAN: Read it.

16 A. The N gate, the A gate, the PH hub, the
17 NSP kit 3, some type of kit. I don't know. And
18 that necessitated a contract
19 replacement/modification. This was not a new
20 6180.

21 Q. So as far as you're concerned, the only

1 thing that this contract did to the previous
2 contract was add these new components?

3 A. And change the term, I mean, you know,
4 change the payment and the term.

5 Q. Okay. So it added a component, right,
6 and it lowered the term from 60 months to 59
7 months? Did it do anything else to your
8 understanding when you filled out this document?

9 A. As I look at it, that's what it appears
10 to be.

11 Q. Okay. Let's go to the next page,
12 2507. Do you recognize the signature on the
13 lower right corner?

14 A. Yes, sir.

15 Q. Whose signature is that?

16 A. Same, Donald Tyler.

17 Q. Do you recognize the handwriting
18 throughout the document?

19 A. Yes, I do.

20 Q. Whose handwriting is that?

21 A. Mine.

1 Q. Okay. Including the title VP Phoenix
2 Color, right?

3 A. Yes.

4 Q. Including the customer legal name
5 Phoenix Color Corp.; is that correct?

6 A. Absolutely.

7 Q. Okay. And what is your understanding of
8 what this document did with respect to the
9 contract that it was modifying?

10 A. According to the document, it says it's
11 a replacement/modification of a prior Xerox
12 agreement. I checked it. And the prior Xerox
13 agreement that it is replacing or modifying is
14 this number. That's what I understand.

15 Q. What is it doing that the previous
16 contract did not do?

17 A. You're adding the stacker. I mean, this
18 is the -- this is what he was doing. He was
19 adding a component.

20 Q. Adding a component and lowering the term
21 from 60 months to 59.

1 A. It might not have been lowering it. It
2 starts out a 60-month contract.

3 Q. Okay.

4 A. It might have been 59 left. He might
5 have said hey, you know, I wanted to get the
6 stackers with those, why didn't you do that.
7 Well, you didn't tell me when we first did it. I
8 want the stackers. The paperwork is necessary.

9 Q. Did this contract do anything other than
10 change the terms you just talked about?

11 A. I don't believe so.

12 Q. Okay. Next page, 2508. Whose signature
13 in the lower right, if you can identify it?

14 A. It is the same signature of Donald
15 Tyler.

16 Q. And whose handwriting is throughout that
17 document?

18 A. The lower right-hand; is that what you
19 meant?

20 Q. Yes. And whose handwriting is
21 throughout the document?

1 A. It appears to be mine.

2 Q. Okay. This document is dated 12/10/99;
3 is that right?

4 A. Yep. It looks like they're all done the
5 same day.

6 Q. Okay. What was -- what changed with
7 respect to this -- this is a contract
8 modification, and what was the new term with
9 respect to this contract?

10 A. This, if I'm looking at this and I have
11 to make an opinion, all these contracts, and
12 they're mixed 6100s, and they're all on the same
13 day, usually you're lengthening what's left and
14 you're giving one group amount of months left on
15 the contract instead of some that are coming up
16 in 40 months and 30 months and 60 months.

17 Q. Well, let's go through from 2509, and
18 I'll just ask you to look at 2510, 11, 12, 13,
19 14, 15, 16, 17, all the way up to --

20 A. Are they all done the same day?

21 Q. -- all the way up to 19.

1 A. Are they all done on the same day?

2 Q. Yes.

3 A. They are all different equipment. That
4 tells me usually, when they're done on the same
5 day and it's all the equipment, that you're
6 trying to get a lower payment. This may have
7 been a genesis from one of the Ed Lieberman
8 meetings. I don't recall.

9 Q. And do you remember any discussions with
10 anyone at TechniGraphix or Phoenix Color about
11 changing the name of the contracting party with
12 respect to these contracts?

13 A. You mean to Phoenix Color?

14 Q. Changing the name from TechniGraphix to
15 Phoenix Color.

16 A. No.

17 Q. You recall no discussions with anyone
18 from TechniGraphix or Phoenix Color about that.

19 A. No.

20 Q. Okay. Let's go to the next page. Oh,
21 let me just ask you if you can look through from

1 2509 to 2519 and take all the time you need and
2 just tell me whether with respect to --

3 A. Look, there's no date on this one. I
4 really did a haphazard job.

5 Q. With the exception of Don Tyler's
6 signature in the lower right corner, to your
7 knowledge, does anyone else's handwriting appear
8 on any of these pages?

9 A. It appears that the only handwritings
10 that appear on these documents are mine and Don
11 Tyler's signature.

12 Q. Okay.

13 A. What am I going to, 19?

14 Q. To 19.

15 A. Yeah, this looks like one massive
16 contract extension or something like that. It's
17 amazing.

18 Q. Okay. Let's go to --

19 A. I don't remember any of this.

20 Q. Let's go to 2520. These contracts 2520
21 to 2533 anyway are typed.

1 A. Right. They were generated by that
2 system.

3 Q. Okay. Do you recall presenting these to
4 Mr. Tyler, which would have been, I guess, three
5 days after Christmas in 1999?

6 A. Do I recall? No.

7 Q. Now, if an agreement is presented by
8 you, does that mean that you necessarily were the
9 person who brought that to him or would you have
10 been involved with that process?

11 A. I was involved.

12 Q. Okay. Who else would have come with you
13 at any given time to present one of these
14 contracts or agreements?

15 A. It could have been an analyst. It could
16 have been -- I mean, generally speaking, it was
17 just me. Jonathan wasn't there hardly at all.

18 Q. When you say Jonathan, do you mean
19 Jonathan Frances?

20 A. Yeah. He helped me with proposals and
21 stuff and working numbers, but generally me.

1 Q. Whose handwriting is that on the date?

2 Is that your handwriting?

3 A. Which document are we on?

4 Q. 2520.

5 A. 2520. Where it says date, right
6 there?

7 Q. Uh-huh.

8 A. That's mine.

9 Q. That's yours. So you dated all these
10 documents?

11 A. It looks that way.

12 Q. Some of the other ones actually have
13 more handwriting on them. Any of the documents
14 from 2520 include handwriting other than yours
15 with the exception of Don Tyler's signature on
16 the lower right corner?

17 A. 2520 on to what?

18 Q. To 2533.

19 A. Oh, man.

20 Q. Take your time.

21 A. I am. 22 has none of my handwriting

1 except for the date.

2 Q. Well, hold on a second. 22 is typed.

3 A. Except for the date I said.

4 Q. Okay. Okay.

5 A. If you're going to try to hang me,
6 listen to the whole thing here. 23 appears to be
7 my handwriting except for Donald Tyler.

8 Q. His signature.

9 A. Yes.

10 Q. Okay.

11 A. See, the system that typed it, once we
12 understood how it worked, we could generate the
13 order and it became less tedious to fill the
14 whole thing out.

15 Q. Right.

16 A. So once we got the hang of it, all we
17 had to do was get the authorization signature.

18 Q. Do you recall ever explaining to anyone
19 at Phoenix Color or TechniGraphix that you were
20 changing the party of the contract from
21 TechniGraphix to Phoenix Color?

1 MR. FRIEDMAN: Objection.

2 MR. GAUMONT: You can answer.

3 MR. FRIEDMAN: There's been no
4 testimony he was changing TechniGraphix to
5 Phoenix Color. Why do you say that?

6 MR. GAUMONT: That's a speaking
7 objection. I want the witness to answer.

8 A. What was the question again? Do I
9 recall ever changing what?

10 Q. Do you recall ever explaining to anyone
11 from Phoenix Color or TechniGraphix that you were
12 changing the name of the contracting party from
13 TechniGraphix to Phoenix Color?

14 A. No, that, that -- no, that was a matter
15 of course. That was nothing -- and as I said to
16 you, the only time TechniGraphix was there was
17 when it was physically located in Virginia. And
18 that was a matter of course.

19 Q. Do you recall how these contracts that
20 were presented on December 28th, 1988, do you
21 recall any of the circumstances of presenting

1 them?

2 A. Not at all.

3 Q. No?

4 A. I mean, you can look back and surmise,
5 but I don't recall. It looks like a nightmare of
6 paperwork.

7 Q. When you say you can look back and
8 surmise, how would you surmise that they were
9 negotiated?

10 A. Are you talking about the ones that are
11 dated on the same date? It looks like, when
12 you're doing so many types of pieces of equipment
13 on the same day and they're like the ones that
14 were dated the 10th and it says replacement/
15 modification, it looks like it was a contract
16 extension to try and get a better rate. I don't
17 know if there was any equipment going in in
18 addition, but that's the way I look at it when I
19 look at these.

20 Q. But the contract dated December 28th,
21 1999, all of them --

1 filling out the name, your name, his name or his
2 title.

3 A. Okay.

4 Q. Would you have -- do you recall whether
5 you filled this out afterwards?

6 A. This is probably all that got done.

7 Q. Okay. Would a document like this, would
8 this order be approved?

9 A. I think the only way that something like
10 this gets usually approved is if it's part of a
11 larger stack of documents. And that's what I
12 think it was.

13 Because this is one little -- this is a
14 separate component. This is not a machine like a
15 6180, its own machine that produces output. This
16 does something to the output. Like it's a
17 perforated folder or something.

18 Q. Is it possible he just signed this
19 document and you filled in his customer name and
20 title afterwards?

21 MR. FRIEDMAN: Objection.

1 A. No, that's not what happened.

2 Q. How do you know that?

3 A. Because I didn't say hey, sign a blank
4 sheet of paper, you know, and I'll fill it out
5 later. I didn't do that.

6 Q. You said before that your general policy
7 was to fill this stuff out before you got to the
8 customer.

9 A. Absolutely.

10 Q. But sometimes the customer signed it and
11 you filled out the terms afterwards.

12 A. No, I didn't say that.

13 Q. Okay.

14 A. You're changing exactly what I said.

15 Q. I just want to get clear on the record
16 exactly what your practice was.

17 A. Don't say that because I did not say
18 that.

19 Q. Okay.

20 A. You asked me if I -- I would typically
21 try to fill out as much as I could but always

1 fill out the pertinent financial information,
2 anything that was pertinent, and sometimes leave
3 out the name, my name, fill that out later, the
4 customer's stuff. That's it.

5 Q. Okay.

6 A. There was nothing -- it was all due to
7 time.

8 Q. Okay.

9 (Whereupon, Nussbaum Deposition
10 Exhibit No. 16, lease agreement, marked.)

11 Q. I ask if you can identify this document.
12 Let me just ask you a very straightforward
13 question. Do you have any idea who wrote all
14 these sort of circles and circled terms and
15 everything?

16 A. Yeah, probably myself, what needed to be
17 done to get it passed through the order process,
18 but this looks like he was going on 24 by 7,
19 three shifts by seven service. It's for existing
20 DocuTechs or existing 6180s. That's what it
21 looks like. And I needed to check the